

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

James Robert Byrd,

Plaintiff,

vs.

Greenville County Sheriff Department,
et al.,

Defendants.

Civil Action No. 6:12-1038-JMC-KFM

REPORT OF MAGISTRATE JUDGE

This matter is before the court on the motion to remand (doc. 13) of the plaintiff, a state prisoner proceeding *pro se*. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Civil Rule 73.02(B)(2)(d) DSC, this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983.

The plaintiff filed a "petition for declaratory judgment" in the Court of Common Pleas in Greenville County concerning revocation of his parole based on a pending domestic violence charge. The pleading claimed violation of his federal rights. On April 17, 2012, the defendants filed a notice of removal to federal court, claiming that this action involves civil claims arising under the Constitution and the laws of the United States pursuant to 28 U.S.C. §§ 1331 and 1441(c).

On April 30, 2012, the plaintiff filed an amended complaint in which he alleged only state claims (doc. 18). Also on April 30th, the plaintiff filed the motion to remand now before this court. In his motion, the plaintiff argues that the motion should be granted as he alleges only state law claims. The defendants consent to the remand of the action on that basis. See 28 U.S.C. § 1447(c) ("If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.").

Wherefore, based upon the foregoing, it is recommended that the plaintiff's motion for remand (doc. 13) be granted.

s/ Kevin F. McDonald
United States Magistrate Judge

May 18, 2012
Greenville, South Carolina

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
300 East Washington St, Room 239
Greenville, South Carolina 29601

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).